

Notice of Allowability

Application No.

10/643,513

Applicant(s)

CHEN ET AL.

Examiner

Carl H. Layno
7/16/05

Art Unit

3762

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to Paper No. 05312005.
2. ☒ The allowed claim(s) is/are 1-38.
3. ☒ The drawings filed on 19 August 2003 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit
of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413),
Paper No./Mail Date _____
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____

DETAILED ACTION

1. Acknowledgment is made of applicant's amendment which was received by the Office on May 31, 2005.

2. Claims 1-38 are active.

Claim Rejections - 35 USC § 103

3. Upon further reconsideration of applicant's arguments with regard to the DeGroot '975 and Brandell '651 patents, the Examiner is withdrawing the 35 U.S.C 103(a) rejection of Brandell '651 in view of DeGroot '975, which was made against claims 1-6, 8-13, 16, 21-24, 26, 27, and 35-37 in the last Office action.

Examiner's Amendment

4. The application has been amended as follows:

-p.1 of specification, lines 5-6, please replace the paragraph under "Cross-Reference to Related Application(s)" with the following updated paragraph:

" This application is a continuation of U.S. Application Serial No. 09/839,123, filed on April 20, 2001; now U.S Patent No. 6,618,617, the specification of which is incorporated herein by reference."

Allowable Subject Matter

5. Claims 1-38 are allowed.

Reasons for Allowance

6. The following is an examiner's statement of reasons for allowance:

Independent claims 1, 8, 21, and 35 all recite details regarding the use of an atrial shock stimulation device, which delivers an atrial shock stimulation only after the expiration of a delay period following the expiration of an initial "threshold duration" following a user's request for therapy. The references of DeGroot '975 and Brandell '651, cited in the last office action, fail to recite the expiration of these delay periods in the order claimed by the applicant. Specifically, the timeout period **T8** of DeGroot '975 (Fig.17 – block 970) does not appear to begin a delay period immediately after its expiration, rather, the stimulation algorithm appears to end (blocks 972,974). It appears that a variable amount of time from period **T8** may expire prior to the delivery of a stimulation pulse (block 978); therefore, the applicant's timeout of a set "therapy request threshold duration" requirement cannot be met. Unable to find this detail in any other prior art reference(s), the Examiner deems independent claims 1, 8, 21, and 35, and their depending claims to be allowable.

Claims 28-34 are also deemed to be allowable over the prior art for the same reasons given in the Office action dated August 26, 2004.

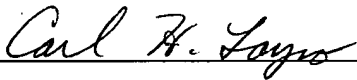
Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Carl H. Layno whose telephone number is (571) 272-4949. The examiner can normally be reached on Monday thru Thursday from 9 AM to 6 PM and every other Friday between 9AM and 5PM. A voice mail or E-mail message (carl.layno@uspto.gov) may be left if desired.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Angela Sykes, can be reached on (571) 272-4955. All faxed communication should be sent to the Office's Official FAX number (571) 273-8300.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to Legal Instruments Examiner (LIE) Brenda Webb whose telephone number is (571) 272-4399.



CARL LAYNO
PRIMARY EXAMINER

CHL
7/16/2005